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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 CALVIN ROUSE (AKA) ADUR RASHID
12 KHALIF,

13 Plaintiff,

14 v.

15 DEPARTMENT OF CORRECTIONS *et al.*,

16 Defendants.

CASE NO. C08-5620FDB/JRC

ORDER DENYING
APPOINTMENT OF COUNSEL

17 This 42 U.S.C. § 1983 action has been referred to the undersigned Magistrate Judge
18 pursuant to 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates Judges' Rules
19 MJR 1, MJR 3, and MJR 4. The matter is before the Court on plaintiff's motion for appointment
20 of counsel (Dkt. # 32). Defendants oppose the motion (Dkt. # 35).

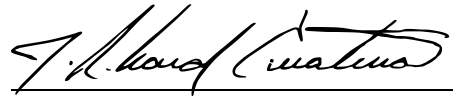
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22 The reasons given by plaintiff for appointment of counsel are: (1) that he is unable to
23 afford counsel, (2) incarcerated, (3) has limited access to a law library, and (4) limited
24 knowledge of the law (Dkt # 32). Defendants note that the reasons given by plaintiff do not meet
25 the criteria for appointment of counsel.
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1 There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983.
2 Although the court, under 28 U.S.C. § 1915(e) (1), can request counsel to represent a party, the
3 court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331
4 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616
5 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both
6 the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro*
7 *se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

9 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* (Dkt # 7).
10 This case is not in a posture where the court can determine the likelihood of success on the
11 merits. Plaintiff's Motion to Appoint Counsel (Dkt. # 32) is **DENIED**.

12 The Clerk's Office is directed to send plaintiff a copy of this order and remove Dkt. # 32
13 from the Court's calendar.

14 DATED this 3rd day of April, 2009.

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18 J. Richard Creatura
19 United States Magistrate Judge
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